

Bangladesh Legal and Judicial Capacity Building Project

The Bangladesh Legal and Judicial Capacity Building Project (Project) is a comprehensive legal and judicial reform project whose over-all objective is to improve the efficiency, effectiveness, and accountability of the civil justice delivery system and increase access to justice, particularly for women and the poor. The six-year Project has six components: (1) Strengthened Case Management and Improved Court Administration, (2) Phased Installation of Automated Court Management Information System (CMIS), (3) Training of District Court Judges and Court Staff, (4) Upgrading and Renovation of Court Buildings, (5) Improvement of Access to Justice, and (6) Support to Legal Reform Capacity Building.

Implementation is to be phased, starting in two of the sixty-four District Courts (the Pilot District Courts) and in the Supreme Court. If modern case management practices and administrative reforms are satisfactorily introduced in these courts, the practices will be further tested in an additional 3 Districts. After further refinement they will be replicated in the other Districts throughout Bangladesh according to a phased schedule.

General oversight of the activities under the Project in the Supreme Court and the District Courts is exercised by a committee of three Supreme Court judges known as the Supreme Court Project Implementation Committee (the “SCPIC”). Day to day responsibility for implementation in the District Courts lies with the District Court Judges and in the Supreme Court with the Registrar and Additional Registrars. One Additional Registrar has been given particular responsibility.

A Chart showing the Government of Bangladesh (“GOB”) entities involved in the implementation of this Project are attached. To provide technical assistance and guidance in the actual implementation of case management and court administration reforms in the judiciary the GOB has entered into a contract with IRIS Center of the University of Maryland. DPK Consulting Co under a separate contract with the Government of Bangladesh is providing technical assistance in an advisory capacity to the Project Director’s Office within the Ministry of Law and also to the SCPIC.

Strengthening of Case Management

The Bangladesh civil justice system processes are lawyer-controlled rather than judge-controlled, and litigation is adversarial. The system emphasizes formal justice, and the justice delivery process is fragmented and prolonged. However, the Bangladesh judicial system has a long heritage and tradition and is grounded in principles of due process and fundamental fairness. The purpose of introducing modern case management is not to disrupt that system or alter its fundamental precepts, but to improve the quality and pace of the civil justice delivery system, to introduce into the system and institutionalize alternative dispute resolution, to reduce backlog, and to make the system more accessible to the users particularly to the disadvantaged, women and children.

The project design pointed to possible ways to improve case management within the context of the existing system, including the existing framework of civil procedure codes and rules.

Those working in the Project are asked to develop and apply techniques and procedures, including the following:

- (a) the formulation and agreement on a case management statement at the outset of the trial;
- (b) the establishment and enforcement of a procedural calendar for the life of a case;
- (c) the early identification of disputed issues of law and fact and use of summary judgment procedures;
- (d) the use, once authorized by law, of consensual processes (ADR) aimed at the resolution of the case other than through a court trial; and
- (e) the establishment of firm dates and rules for the trial, should a trial be necessary.
- (f) The enforcement of time limits for processing cases, backed by a regime of costs and/or other sanctions to discourage non-compliance;
- (g) the elimination of unnecessary procedural steps for, and other hurdles to, the enforcement of judgments;
- (h) the rationalization of the system of appeals, revisions and injunctions/stay orders.

The Project calls for the preparation and introduction of certain tools judges and staff need in order to promote performance under a strengthened case management system, including:

- (a) bench-books for judges, clerical procedural manuals for court room staff, and trial practice manuals for litigating counsels;
- (b) standardized legal and administrative forms; and
- (c) improved courtroom facilities, as well as technology support, with automated case tracking systems, as part of the CMIS to be installed in the Supreme Court and the District Courts.

The Project also aims to support creation of appropriate performance standards in the courts, and development of a more transparent and accountable measurement of court performance.

Combinations of these and other improvements will be piloted and the best solutions adopted and applied under the Project. To the extent possible, judges will work within the existing procedural codes to initiate and test modern case management techniques and alternative dispute resolution (ADR) mechanisms. In the course of implementation certain procedural codes and rules may need to be revised, streamlined or amended. However, modifications of the Code of Civil Procedure will in general not be entertained until after efforts have been made to activate the existing system.¹

Improvement of Court Administration

Improvements in court administration must be made at both the national and the District levels. Administrative reorganization is vital at this time in order to put in place the structures and processes necessary to administer an independent judiciary. At some time in the future the judiciary may be expected to perform all of those necessary functions which

¹ Early in implementation it became clear that ADR mechanisms could not be introduced in the absence of appropriate legislation. This legislation is now being drafted.

are now being performed by the Executive. At the national level, the Registrar's Office in the Supreme Court will be studied and reorganized along functional lines, i.e. case management, planning, budgeting and financial management, general administration, human resources, and research. Institutions such as the existing Judicial Council will be studied and other administrative reorganizations may be recommended and implemented.

At the district level, to reduce the administrative workload of the District Judge, the administrative officer and other staff, on whom the judge relies in administrative matters, will be upgraded, in part by developing a career path for them. The District Court's administrative office will be modernized and will have appropriate and trained staff, e.g., a planning and budgeting officer, a purchasing and accounting officer, and other customary (but better trained) staff, e.g., a court order clerk, a process/decreed officer, and process servers. Office manuals will be developed documenting the new procedures and standard forms; office space will be created adequate for staff, records and equipment; and technology, including computers and suitable software, with linkage to the Court Management Information System (CMIS), will be supplied under the project.

The Project has been designed so that the development and installation of the computerized management information system in the court is to be implemented with the technical assistance of a separate contractor, which has yet to be selected. Close coordination between the CMIS component and the case management and court administration component will be necessary.